

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	
DONALD FRANCIS MUHICH, M.D.)	No. D-1835
8111 Beverly Boulevard, #305)	
Los Angeles, California 90048)	L-12445
)	
Physician's and Surgeon's)	
Certificate No. C-21845,)	
)	
Respondent.)	
)	

DECISION AND ORDER

This matter came on regularly for hearing before Carl A. Pierson, an Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on December 10, 1976, at the hour of 9:00 a.m. Joseph Barkett, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by James Alle, Attorney at Law. Evidence both oral and documentary were introduced and the matter was submitted. Thereafter, on the date of January 6, 1977, the Administrative Law Judge submitted his Proposed Decision. On January 6, 1978, the matter was remanded to the same Administrative Law Judge for the purpose of receiving additional evidence to determine the validity of respondent's conviction in the case of "The People of the State of California v. Donald Francis Muhich," case No. V 345301 and to issue a new Proposed Decision which would include a determination of the validity of the aforementioned conviction. Pursuant to said Order of Remand, the matter came on before the same Administrative Law Judge, Carl A. Pierson, on July 19, 1978. Joseph Barkett, Deputy Attorney General, again represented the complainant. The respondent appeared in person but was not represented by an attorney at said hearing. Exhibit 6, an Order Dismissing Appeal in the above conviction was introduced into evidence and the matter was again submitted.

A proposed decision recommended by the Administrative Law Judge was non-adopted by the Division of Medical Quality. The Division proceeded to decide the case itself upon the record, including the transcript. The parties were afforded the opportunity to file written argument with the Division.

Having considered the matter, the Division now makes the following decision:

FINDINGS OF FACT

I

Raymond M. Reid made and filed the Accusation herein solely in his official capacity as the Executive Officer of the Board of Medical Quality Assurance of the State of California.

II

Donald Francis Muhich, M.D. (hereinafter referred to as "respondent"), was heretofore issued Physician's and Surgeon's Certificate No. C-21845 by the Board of Medical Examiners of the State of California, and at all times herein mentioned, respondent was, and now is, licensed to practice medicine and surgery in the State of California.

III

A. On or about July 22, 1966, in the Municipal Court of the State of California, City and County of San Francisco, in a proceeding entitled "The People of the State of California v. Donald Francis Muhich," case No. L-40333, respondent was convicted, pursuant to his plea of nolo contendere, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

B. On or about December 18, 1975, in the Municipal Court of the State of California, County of Los Angeles, Los Angeles Judicial District, in a proceeding entitled "People of the State of California v. Donald F. Muhich" (sic), case No. V 341767, respondent was convicted, pursuant to his plea of guilty, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

C. On or about February 9, 1976, in the Municipal Court of the State of California, County of Los Angeles, Los Angeles Judicial District, in a proceeding entitled "People of the State of California v. Donald Francis Muhich," case No.

V 345301, respondent was convicted, pursuant to a jury verdict, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

This conviction was appealed by respondent, however, said appeal was dismissed by the Appellate Department of the Superior Court of the County of Los Angeles, by reason of the respondent having filed a written Abandonment of Appeal. Said conviction has now become finalized.

IV

Respondent indicated that with regard to the conviction of December 18, 1975, as hereinabove set forth he had been experimenting with "Lift" pills which have had as their goal the reduction of the effects of alcohol. He and his associates have discontinued experimenting with said pills. The evidence suggests that respondent does have a problem with alcohol.

DETERMINATION OF ISSUES

Respondent has been convicted of more than one misdemeanor involving the use or consumption of alcoholic beverages which constitutes unprofessional conduct within the meaning of section 2390 of the State Medical Practice Act and therefore cause for discipline exists pursuant to the provisions of sections 2360 and 2390 of the State Medical Practice Act.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate No. C-21845 heretofore issued to Donald Francis Muhich, M.D., to practice medicine and surgery is hereby suspended for sixty (60) days; however, said suspension is hereby stayed and respondent is placed on probation for a period of three (3) years from the effective date of this decision upon the following terms and conditions:

1. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

2. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

3. Respondent shall comply with the Division's probation surveillance program.

4. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

5. In the event respondent should leave California to reside or to practice outside the State, respondent must notify in writing the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the suspension of the respondent's certificate.

Upon successful completion of probation, respondent's certificate will be fully restored.

The effective date of this decision is December 12, 1979

SO ORDERED November 12, 1979

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE

By 
A. DAVID AXELRAD, M.D.
Secretary-Treasurer

FL:jw

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

DONALD FRANCIS MUHICH, M.D.)

Respondent.)

No. D-1835

L-12445

NOTICE OF NON-ADOPTION OF PROPOSED DECISION

(Pursuant to Section 11517 of the Government Code)

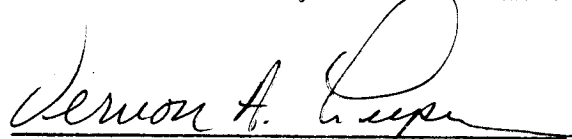
TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that the Division of Medical Quality of the Board of Medical Quality Assurance of the State of California has decided not to adopt the attached proposed decision rendered by a duly assigned Administrative Law Judge. You are also notified that the Division of Medical Quality will decide the case upon the record, including the transcript and without the taking of additional evidence. You are hereby afforded the opportunity to present written argument to the Division of Medical Quality, if you desire to do so, by filing such written argument with the Division at its office at 1430 Howe Avenue, Sacramento, California 95825, and the same opportunity is afforded the Attorney General of the State of California.

You will be notified of the date for submission of such written argument when the transcript of the administrative hearing becomes available.

DATED: December 6, 1978

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE


VERNON A. LEEPER, Program Manager
Enforcement Unit

BEFORE THE DIVISION OF MEDICAL QUALITY

BOARD OF MEDICAL QUALITY ASSURANCE

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation)	
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PROPOSED DECISION

This matter came on regularly for hearing before Carl A. Pierson, an Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on December 10, 1976, at the hour of 9:00 a.m. Joseph Barkett, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by James Alle, Attorney at Law. Evidence both oral and documentary were introduced and the matter was submitted. Thereafter, on the date of January 6, 1977, the Administrative Law Judge submitted his Proposed Decision. On January 6, 1978, the matter was remanded to the same Administrative Law Judge for the purpose of receiving additional evidence to determine the validity of respondent's conviction in the case of "The People of the State of California v. Donald Francis Muhich", case No. V 345301 and to issue a new Proposed Decision which would include a determination of the validity of the aforementioned conviction. Pursuant to said Order of Remand, the matter came on before the same Administrative Law Judge, Carl A. Pierson, on July 19, 1978. Joseph Barkett, Deputy Attorney General, again represented the complainant. The respondent appeared in person but was not represented by an attorney at said hearing. Exhibit 6, an Order Dismissing Appeal in the above conviction was introduced into evidence and the matter was again submitted. The Administrative Law Judge now finds the following facts:

I

Raymond M. Reid made and filed the Accusation herein

solely in his official capacity as the Executive Officer of the Board of Medical Quality Assurance of the State of California.

II

Donald Francis Muhich, M.D. (hereinafter referred to as "respondent"), was heretofore issued Physician's and Surgeon's Certificate No. C 21845 by the Board of Medical Examiners of the State of California, and at all times herein mentioned, respondent was, and now is, licensed to practice medicine and surgery in the State of California.

III

A. On or about July 22, 1966, in the Municipal Court of the State of California, City and County of San Francisco, in a proceeding entitled "The People of the State of California v. Donald Francis Muhich," case No. L 40333, respondent was convicted, pursuant to his plea of nolo contendere, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

B. On or about December 18, 1975, in the Municipal Court of the State of California, County of Los Angeles, Los Angeles Judicial District, in a proceeding entitled "People of the State of California v. Donald F. Muhich" [sic], case No. V 341767, respondent was convicted, pursuant to his plea of guilty, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

C. On or about February 9, 1976, in the Municipal Court of the State of California, County of Los Angeles, Los Angeles Judicial District, in a proceeding entitled "People of the State of California v. Donald Francis Muhich," case No. V 345301, respondent was convicted, pursuant to a jury verdict, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

This conviction was appealed by respondent, however, said appeal was dismissed by the Appellate Department of the Superior Court of the County of Los Angeles, by reason of the respondent having filed a written Abandonment of Appeal. Said conviction has now become finalized.

IV

Respondent indicated that with regard to the conviction of December 18, 1975, as hereinabove set forth he had been experimenting with "lift" pills which have had as their goal the reduction of the effects of alcohol. He and his associates have discontinued experimenting with said pills. Respondent does not have an overall drinking problem. The incidents hereinabove set forth are scattered over a ten to twelve year period.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Respondent has been convicted of more than one misdemeanor involving the use or consumption of alcoholic beverages which constitutes unprofessional conduct within the meaning of section 2390 of the State Medical Practice Act and therefore cause for discipline exists pursuant to the provisions of sections 2360 and 2390 of the State Medical Practice Act.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate No. C 21845 heretofore issued to Donald Francis Muhich, M.D., to practice medicine and surgery is hereby suspended for sixty (60) days; however, said suspension is hereby stayed and respondent is placed on probation for a period of three (3) years from the effective date of this decision upon the following terms and conditions:

1. Respondent shall report in person to the Board of Medical Quality Assurance semi-annually at Los Angeles, California, commencing in the year 1978 as may be directed by the Board.
2. Respondent shall comply with all laws of the United States, the State of California and its political subdivisions and with the rules and regulations of the Board of Medical Examiners.
3. Respondent shall submit to the Board of Medical Examiners at quarterly intervals an affidavit to the effect that he has fully and faithfully complied with all the terms and conditions of probation imposed herein. Said affidavit shall be first filed upon completion of the first full quarter after the effective date of this decision.

In the event respondent does not comply with the conditions of probation hereinabove set forth and during the period of probation the Board may after notice to respondent and opportunity to be heard terminate said probation effective immediately or make such other order modifying or changing the probation as it deems just and reasonable in its discretion. Upon the expiration of the period of probation the stay of the order of suspension will become permanent and respondent's license fully restored.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter as a result of the hearing had before me on the above dates at Los Angeles, California, and recommend its adoption as the decision

of the Board of Medical Quality
Assurance.

DATED: August 31, 1978

A handwritten signature in cursive script, appearing to read "Carl A. Pierson". The signature is written in dark ink and is positioned above the printed name.

CARL A. PIERSON,
Administrative Law Judge
Office of Administrative Hearings

CAP:jm

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

DONALD FRANCIS MUHICH, M.D.
8111 Beverly Boulevard, #305
Los Angeles, California 90048

Physician's and Surgeon's
Certificate No. C 21845,

Respondent.

NO. D-1835

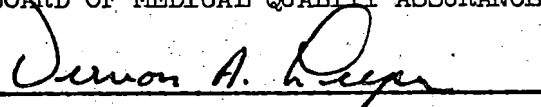
L-12445

ORDER OF REMAND

The above captioned matter is hereby remanded by the Division of Medical Quality to Administrative Law Judge Carl A. Pierson for the purpose of receiving additional evidence to determine the validity of respondent's conviction in the case of "People of the State of California v. Donald Francis Muhich," Case No. V 345301. The Administrative Law Judge shall issue a new proposed Decision which shall include a determination of the validity of the aforementioned conviction.

Division of Medical Quality
BOARD OF MEDICAL QUALITY ASSURANCE

By:



VERNON A. LEEPER, Chief
Enforcement Program

DATED: January 6, 1978
ML:my

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	NO. D-1835
Against:)	
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DONALD FRANCIS MUHICH, M.D.)	
8111 Beverly Boulevard, #305)	
Los Angeles, California 90048)	
Physician's and Surgeon's)	
Certificate No. C 21845,)	
Respondent.)	

PROPOSED DECISION

This matter came on regularly for hearing before Carl A. Pierson, an Administrative Law Judge with the Office of Administrative Hearings, at Los Angeles, California, on December 10, 1976, at the hour of 9:00 a.m. Joseph Barkett, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by James Alle, Attorney at Law. Evidence both oral and documentary having been introduced and the matter submitted, the Administrative Law Judge finds the following facts:

I

Raymond M. Reid made and filed the Accusation herein solely in his official capacity as the Executive Officer of the Board of Medical Quality Assurance of the State of California.

II

Donald Francis Muhich, M.D. (hereinafter referred to as "respondent"), was heretofore issued Physician's and Surgeon's Certificate No. C 21845 by the Board of Medical Examiners of the State of California, and at all times herein mentioned, respondent was, and now is, licensed to practice medicine and surgery in the State of California.

III

A. On or about July 22, 1966, in the Municipal Court of the State of California, City and County of San Francisco, in a proceeding entitled "The People of the State of California v. Donald Francis Muhich," Case No. L 40333, respondent was convicted, pursuant to his plea of nolo contendere, of violating Vehicle Code section 23102A (driving while under the influence of intoxicating liquor), a misdemeanor.

B. On or about December 18, 1975, in the Municipal Court of the State of California, County of Los Angeles, Los Angeles Judicial District, in a proceeding entitled "People of the State of California v. Donald F. Muhich" [sic], Case No. V 341767, respondent was convicted, pursuant to his plea of guilty, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

C. On or about February 9, 1976, in the Municipal Court of the State of California, County of Los Angeles, Los Angeles Judicial District, in a proceeding entitled "People of the State of California v. Donald Francis Muhich," Case No. V 345301, respondent was convicted, pursuant to a jury verdict, of violating Vehicle Code section 23102a (driving while under the influence of intoxicating liquor), a misdemeanor.

It was stipulated by the parties hereto that the above Case No. V 345301 is now on appeal in the Appellate Department of the Superior Court.

This conviction has not become finalized and is therefore not considered in the findings of fact to be used in determining the penalty hereinafter imposed.

IV

Respondent indicated that with regard to the conviction of December 18, 1975 as hereinabove set forth he had been experimenting with "lift" pills which have had as their goal the reduction of the effects of alcohol. He and his associates have

discontinued experimenting with said pills. Respondent does not have an overall drinking problem. The incidents hereinabove set forth are scattered over a ten to twelve year period.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Respondent has been convicted of more than one misdemeanor involving the use or consumption of alcoholic beverages which constitutes unprofessional conduct within the meaning of Section 2390 of the State Medical Practice Act and therefore cause for discipline exists pursuant to the provisions of Sections 2360 and 2390 of the State Medical Practice Act.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

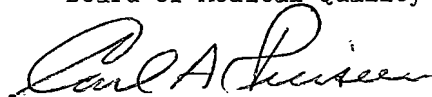
Certificate No. C 21845 heretofore issued to Donald Francis Muhich, M.D., to practice medicine and surgery is hereby suspended for sixty (60) days; however, said suspension is hereby stayed and respondent is placed on probation for a period of three (3) years from the effective date of this decision upon the following terms and conditions:

1. Respondent shall report in person to the Board of Medical Quality Assurance semi annually at Los Angeles, California commencing in the year 1977 as may be directed by the Board.
2. Respondent shall comply with all laws of the United States, the State of California and its political subdivisions and with the rules and regulations of the Board of Medical Examiners.
3. Respondent shall submit to the Board of Medical Examiners at quarterly intervals an affidavit to the effect that he has fully and faithfully complied with all the terms and conditions of probation

imposed herein. Said affidavit shall be first
filed upon completion of the first full quarter
after the effective date of this decision.

In the event respondent does not comply with the
conditions of probation hereinabove set forth and during the period
of probation the Board may after notice to respondent and opportunity
to be heard terminate said probation effective immediately or make
such other order modifying or changing the probation as it deems
just and reasonable in its discretion. Upon the expiration of the
period of probation the stay of the order of suspension will become
permanent and respondent's license fully restored..

I hereby submit the foregoing which
constitutes my Proposed Decision in
the above-entitled matter, as a
result of the hearing had before me
on December 10, 1976, at Los Angeles,
California, and recommend its
adoption as the decision of the
Board of Medical Quality Assurance.



CARL A. PIERSON
Administrative Law Judge
Office of Administrative Hearings

DATED: January 6, 1977
CAP:mh

EVELLE J. YOUNGER, Attorney General
JOSEPH BARKETT,
Deputy Attorney General
800 Tishman Building
3580 Wilshire Boulevard
Los Angeles, California 90010
Telephone: (213) 736-2013

Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY

BOARD OF MEDICAL QUALITY ASSURANCE

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

NO. D-1835

DONALD FRANCIS MUHICH, M.D.
8111 Beverly Boulevard, #305
Los Angeles, California 90048

ACCUSATION

Physician's and Surgeon's
Certificate No. C 21845,

Respondent.

COMES NOW Complainant Raymond M. Reid, who, as causes
for disciplinary action against the above named and captioned
respondent, charges and alleges as follows:

1. He is the Executive Officer of the Board of Medical
Quality Assurance of the State of California (hereinafter referred
to as the "Board") and makes and files this Accusation solely in
his official capacity.

2. Donald Francis Muhich, M.D. (hereinafter referred
to as "respondent"), was heretofore issued Physician's and
Surgeon's Certificate No. C 21845 by the Board of Medical
Examiners of the State of California, and at all times herein
mentioned, respondent was, and now is, licensed to practice
medicine and surgery in the State of California.

1 3. Pursuant to section 2100 of the Business and
2 Professions Code (hereinafter the "Code"), there exists a Board
3 of Medical Quality Assurance of the State of California, as
4 successor to the Board of Medical Examiners.

5 4. Pursuant to section 2100.5 of the Code, there is a
6 Division of Medical Quality within the Board of Medical Quality
7 Assurance (hereinafter the "Division").

8 5. Pursuant to section 2100.6 of the Code, the Division
9 is responsible, inter alia, for the administration and hearing of
10 disciplinary actions and the carrying out of disciplinary action
11 appropriate to findings made by a Medical Quality Review Committee
12 or a Hearing Officer (Administrative Law Judge).

13 6. Sections 2360 and 2372 of the Code provide that
14 every certificate issued may be suspended or revoked. Section
15 2361 of the Code provides that the Division shall take disciplinary
16 action against any holder of a certificate who is guilty of
17 unprofessional conduct.

18 7. Section 2390 of the Code provides, in pertinent part,
19 that the conviction of more than one misdemeanor involving the
20 use or consumption of alcoholic beverages constitutes unprofes-
21 sional conduct within the meaning of the State Medical Practice
22 Act (Bus. & Prof. Code §§ 2000-2528.3, inclusive). Said section
23 further provides that the record of the conviction is conclusive
24 evidence of such unprofessional conduct and a plea or verdict of
25 guilty or a conviction following a plea of nolo contendere is
26 deemed to be a conviction within the meaning of this section.

27 8. Respondent is subject to disciplinary action
28 pursuant to sections 2360 and 2390 of the Code in that respondent
29 has been convicted of three misdemeanors involving the use or
30 consumption of alcoholic beverages. The circumstances are as
31 follows:

1 A. On or about July 22, 1966, in the
2 Municipal Court of the State of California, City
3 and County of San Francisco, in a proceeding
4 entitled "The People of the State of California
5 v. Donald Francis Muhich," Case No. L 40333,
6 respondent was convicted, pursuant to his plea
7 of nolo contendere, of violating Vehicle Code
8 section 23102A (driving while under the influence
9 of intoxicating liquor), a misdemeanor.

10 B. On or about December 18, 1975, in the
11 Municipal Court of the State of California, County
12 of Los Angeles, Los Angeles Judicial District, in
13 a proceeding entitled "People of the State of
14 California v. Donald F Muhich" [sic], Case No.
15 V 341767, respondent was convicted, pursuant to
16 his plea of guilty, of violating Vehicle Code
17 section 23102a (driving while under the influence
18 of intoxicating liquor), a misdemeanor.


19 C. On or about February 9, 1976, in the
20 Municipal Court of the State of California, County
21 of Los Angeles, Los Angeles Judicial District, in
22 a proceeding entitled "People of the State of
23 California v. Donald Francis Muhich," Case No.
24 V 345301, respondent was convicted, pursuant to
25 a jury verdict, of violating Vehicle Code section
26 23102a (driving while under the influence of
27 intoxicating liquor), a misdemeanor.

28 WHEREFORE, complainant prays that the Division of
29 Medical Quality of the Board of Medical Quality Assurance hold
30 a hearing on the matters alleged herein, and following said
31 hearing, issue a decision:

1 1. Revoking or suspending the Certificate of Licensure
2 heretofore issued to Donald Francis Muhich, M.D.; and

3 2. Taking such other and further action as the Board
4 deems necessary and proper.

5 DATED: 7/20/76.

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9 RAYMOND M. REID
10 Executive Officer
11 Division of Medical Quality
12 Board of Medical Quality Assurance
13 State of California

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Complainant

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